

AMENDED IN ASSEMBLY AUGUST 19, 2013

AMENDED IN ASSEMBLY JUNE 18, 2013

AMENDED IN SENATE MAY 28, 2013

AMENDED IN SENATE MAY 14, 2013

AMENDED IN SENATE MAY 8, 2013

AMENDED IN SENATE APRIL 24, 2013

AMENDED IN SENATE APRIL 10, 2013

**SENATE BILL**

**No. 744**

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**Introduced by Senator Lara**

February 22, 2013

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An act to amend Sections 1981, 1983, 48660.1, 48662, and 48918 of, to add Sections 1981.5 and 48662.5 to, and to repeal Section 1981.2 of, the Education Code, relating to pupils.

LEGISLATIVE COUNSEL'S DIGEST

SB 744, as amended, Lara. Pupils: involuntary transfer: county community schools and community day schools.

(1) Existing law authorizes a county board of education to establish and maintain one or more community schools into which the county board of education may enroll specified pupils, including, but not limited to, pupils who are expelled for specified reasons, referred as the result of the recommendation by a school attendance review board, probation referred, or homeless children.

This bill would revise the list of pupils who may be involuntarily enrolled in a county community school to limit the kind of probation referrals and remove homeless children. The bill, with regard to pupils

referred as the result of a recommendation by the school attendance review board, would require that the *school district and the county office of education determine that the county community school has space for available to enroll the pupil, the pupil's educational needs will be met by the placement, the pupil does not incur transportation costs above and beyond those at his or her prior school, county community school, and that the parent, guardian, or responsible adult does not expressly object to the referral. The bill would require the school attendance review board to include a school option that is geographically accessible, as defined, to the pupil, if the county community school is not geographically accessible, as specified.* The bill would also provide that the pupil has the right to return to his or her previous school, or other appropriate school, at the end of the semester following the semester when the acts leading to referral occurred. The bill would allow enrollment of certain other pupils in a county community school with the consent of the pupil's parent or guardian. The bill would authorize, with respect to certain probation referrals to a county community school, certain persons, including the attorney for a pupil who is under the jurisdiction of a delinquency court, to take specified actions related to the enrollment of a pupil in a county community school.

(2) Existing law requires a county community school to prescribe an individually planned educational program based on an educational assessment for each pupil. Existing law requires the course of study of a county community school to be adopted by the county board of education to enable each pupil to continue academic work leading to the completion of a regular high school program.

This bill would require county boards of education operating county community schools to ensure, among other things, that appropriate services and programs specified in a pupil's individualized education program are provided.

(3) Existing law authorizes the governing board of a school district to establish one or more community day schools for pupils in any of kindergarten and grades 1 to 12, inclusive. Existing law authorizes the governing board of a school district to assign a pupil to a community day school only if the pupil meets specified conditions, including, but not limited to, being expelled, being referred by a school attendance review board or other district-level referral process, and being probation referred pursuant to specified law.

This bill would revise the list of pupils who may be involuntarily transferred to a community day school to limit the kind of probation referrals. The bill would impose certain conditions on the involuntary transfer of a pupil referred by the school attendance review board or other district-level referral process ~~if there is no school attendance review board~~ *and would require the school attendance review board or other district-level referral process to include a geographically accessible school option if the community day school is not geographically accessible.* The bill would allow enrollment of certain other pupils in a community day school with the consent of the pupil's parent or guardian. The bill would authorize, with respect to certain probation referrals to a community day school, certain persons, including the attorney for a pupil who is under the jurisdiction of a delinquency court, to take specified actions related to the enrollment of a pupil in a community day school.

(4) Existing law states the intent of the Legislature that community day schools include specified program components, including, but not limited to, individualized instruction and assessment.

This bill would state the intent of the Legislature that, if an individualized assessment shows that the pupil requires additional educational services that are ~~not available~~ *offered* at the community day school, the parent, guardian, or responsible adult of the pupil ~~should~~ *shall* be informed, and that the probation officer relative to a pupil ordered placed in a community day school by court order ~~should~~ *shall* also be informed. The bill would require school districts operating community day schools to ensure that appropriate services and programs, as provided, are provided to certain pupils, as specified. *The bill would authorize a school district to require a pupil, with the consent of his or her parent or guardian, to enroll in a county-supported drug rehabilitation program pursuant to a specified provision.*

(5) This bill would provide a pupil who ~~is~~ *has been* involuntarily enrolled in a county community school or a community day school the right to reenroll in his or her former school or another comprehensive school immediately after being readmitted from *an* expulsion order or court-ordered placement. ~~The bill would prohibit the pupil from being denied readmission to the school district of residence based on his or her failure to comply with any additionally imposed criteria beyond the terms of the initial or subsequent expulsion order.~~ The bill would prohibit additional academic or behavioral criteria or conditions that would extend the duration of the placement of a pupil in a county

~~community school or a community day school beyond the terms of the initial or subsequent expulsion order from being added~~ *provide that only the governing board of the school district that issued the initial order or subsequent order to expel may extend the duration of an expelled pupil's placement in a county community school or a community day school.*

(6) Existing law requires the governing board of each school district to establish rules and regulations governing procedures for the expulsion of pupils. Existing law requires the adopted rules and regulations to require, if a hearing officer or administrative panel decided not to recommend expulsion, the expulsion proceedings to be terminated and the pupil to be immediately reinstated and permitted to return to a classroom instructional program, any other instructional program, a rehabilitation program, or any combination of these programs.

This bill would require the adopted rules and regulations to instead require that the pupil be permitted to return only to the classroom instructional program from which the expulsion referral was made unless a parent, guardian, or responsible adult requests another school placement in writing. The bill would, before the placement decision is made by the parent, guardian, or responsible adult, require the superintendent of schools or the superintendent's designee to consult with school district personnel, including the pupil's teachers, and the parent, guardian, or responsible adult regarding any other school placement options for the pupil in addition to the option to return to his or her classroom instructional program from which the expulsion referral was made. By requiring the governing board of a school district to establish or revise the rules and regulations governing procedures for the expulsion of pupils, the bill would impose a state-mandated local program.

(7) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 1981 of the Education Code is amended  
2 to read:

3 1981. The county board of education may enroll pupils in a  
4 county community school who are any of the following:

5 (a) Expelled from a school district for any reason other than  
6 those specified in subdivision (a) or (c) of Section 48915.

7 (b) (1) Referred to *a county community-schools school* by a  
8 school district as a result of the recommendation by a school  
9 attendance review board. A pupil shall not be referred *to a county*  
10 *community school* by a school district unless ~~the office of education~~  
11 ~~has space for enrollment available, the school district and county~~  
12 ~~board of education determine that the county community school~~  
13 ~~meets the educational needs of the pupil, the pupil does not incur~~  
14 ~~transportation costs above and beyond those necessary to attend~~  
15 ~~his or her prior school of residence, and the parent has not expressly~~  
16 ~~objected to the referral.~~ *school district and the county office of*  
17 *education determine all of the following:*

18 (A) *The county community school has space available to enroll*  
19 *the pupil.*

20 (B) *The county community school meets the educational needs*  
21 *of the pupil.*

22 (C) *The parent, guardian, or responsible adult of the pupil has*  
23 *not expressly objected to the referral.*

24 (2) *If the county community school recommended pursuant to*  
25 *paragraph (1) is not geographically accessible to the pupil, the*  
26 *school attendance review board shall also include in its*  
27 *recommendation a school option for the pupil that is*  
28 *geographically accessible to the pupil and for which the school*  
29 *district and the county office of education determine all of the*  
30 *following:*

31 (A) *The recommended school option has space available to*  
32 *enroll the pupil.*

33 (B) *The recommended school option meets the educational needs*  
34 *of the pupil.*

35 (C) *The parent, guardian, or responsible adult of the pupil has*  
36 *not expressly objected to the recommended school option.*

37 (2)

1 (3) The pupil has the right to return to his or her prior school  
2 or another appropriate school within his or her school district at  
3 the end of the semester following the semester when the acts  
4 leading to referral ~~occurred, regardless of whether the pupil is~~  
5 ~~successful at the county community school~~ *occurred*.

6 (c) (1) (A) On probation, with or without the supervision of  
7 a probation officer and consistent with an order of a juvenile court,  
8 who are considered to be wards of the court under Sections 601  
9 and 602 of the Welfare and Institutions Code and ordered placed  
10 pursuant to Sections 725, 729.2, and 791 of, and paragraph (2) of  
11 subdivision (a) of Section 727 of, the Welfare and Institutions  
12 Code.

13 (B) Under the supervision of a probation officer, with the  
14 consent of the minor and the minor's parent or guardian, pursuant  
15 to Section 654 of the Welfare and Institutions Code.

16 (C) Under the supervision of a probation officer pursuant to  
17 Section 726 and paragraph (3) of subdivision (a) of Section 727  
18 of the Welfare and Institutions Code with the consent of the pupil's  
19 parent, guardian, or responsible adult appointed by the juvenile  
20 court to make educational decisions for the pupil. The enrollment  
21 of a minor covered by this paragraph in a county community school  
22 shall be consistent with paragraph (2) of subdivision (c) of Section  
23 726 of the Welfare and Institutions Code, which provides that all  
24 educational and school placement decisions shall seek to ensure  
25 that the youth is in the least restrictive educational program, has  
26 access to the academic resources, services, and extracurricular and  
27 enrichment activities that are available to all pupils, and are based  
28 on the best interests of the ~~minor~~ *child*.

29 (D) Unless specifically ordered by a juvenile court, nothing in  
30 this subdivision shall be construed to conflict with the existing  
31 rights of a parent, guardian, or responsible adult appointed by the  
32 juvenile court pursuant to Section 726 of the Welfare and  
33 Institutions Code to make educational placement decisions for the  
34 minor.

35 (E) With respect to a pupil's enrollment in a county community  
36 school pursuant to subparagraph (B) or (C), and consistent with  
37 paragraph (2) of subdivision (c) of Section 726 of the Welfare and  
38 Institutions Code and California Rule of Court 5.651, all of the  
39 following shall apply:

1 (i) The attorney for, or the person holding the educational rights  
2 of, a pupil who is under the jurisdiction of the delinquency court  
3 may use the procedures set forth in California Rule of Court 5.651  
4 to address any change of placement that results in the enrollment  
5 of the pupil in a county community school that is not his or her  
6 school of origin.

7 (ii) The attorney or the person holding the educational rights  
8 appointed by the court for a pupil who is under the jurisdiction of  
9 the delinquency court may, during a regularly scheduled hearing,  
10 raise any concerns with respect to whether the enrollment of the  
11 pupil in a county community school is meeting the educational  
12 needs of the pupil.

13 (iii) Nothing in this subparagraph is intended to limit in any  
14 way the rights or responsibilities of any person as set forth in  
15 paragraph (2) of subdivision (c) of Section 726 of the Welfare and  
16 Institutions Code and California Rule of Court 5.651.

17 (2) On probation or parole and not in attendance at any school,  
18 where enrollment is with the consent of the parent, guardian, or  
19 responsible adult, or the pupil, if he or she is 18 years of age or  
20 older. Nothing in this subdivision shall impact the provision of  
21 services or funding for youth up to 25 years of age pursuant to  
22 subdivision (b) of Section 1982.

23 (3) Expelled for any of the reasons specified in subdivision (a)  
24 or (c) of Section 48915.

25 (4) Enrollment in a county community school pursuant to this  
26 subdivision shall be consistent with *subdivision (b) of Section*  
27 *48645.5*.

28 (d) Pupils whose school districts of attendance, or, for pupils  
29 who do not have school districts of attendance, school districts of  
30 residence, have, at the request of the pupil's parent, guardian, or  
31 responsible adult, approved the pupil's enrollment in a county  
32 community school, subject to the following:

33 (1) A pupil shall not be enrolled in a county community school  
34 pursuant to this subdivision unless the school district determines  
35 that the placement will promote the educational interests of the  
36 pupil *and the county community school has space available to*  
37 *enroll the pupil*.

38 (2) A parent, guardian, or responsible adult of a pupil enrolled  
39 in a county community school pursuant to this subdivision may  
40 rescind the request to the placement, and the pupil shall be

1 immediately reenrolled in the school that the pupil attended at the  
2 time of the referral, or, with the consent of the parent, guardian,  
3 or responsible adult, another appropriate school.

4 (e) The procedures outlined in subdivisions (b) to (e), inclusive,  
5 of Section 51225.2 govern the transfer of credits, records, including  
6 special education records, and grades required pursuant to  
7 subdivision (a) of Section 48645.5 and Section 49068 when the  
8 pupil transfers to and from the county community school.

9 (f) *For purposes of this section, “geographically accessible”*  
10 *means that the pupil can reasonably travel to and from the school*  
11 *and is able to pay for any transportation costs that are above and*  
12 *beyond the costs to attend his or her school of residence or prior*  
13 *school, whichever is farther away.*

14 SEC. 2. Section 1981.2 of the Education Code is repealed.

15 SEC. 3. Section 1981.5 is added to the Education Code, to  
16 read:

17 1981.5. (a) A pupil who is involuntarily enrolled in a county  
18 community school pursuant to subdivision (a) of, or subparagraph  
19 (A) of paragraph (1) or paragraph (3) of subdivision (c) of, Section  
20 1981 shall have the right to reenroll in his or her former school or  
21 another comprehensive school immediately after being readmitted  
22 from the expulsion order pursuant to Section 48916 or  
23 court-ordered placement. Nothing in this section is intended to  
24 limit the school placement options that a school district may  
25 recommend for a pupil being readmitted.

26 ~~(b) A pupil shall not be denied readmission to the school district~~  
27 ~~of residence based on the pupil’s failure to comply with any~~  
28 ~~additionally imposed criteria beyond the terms of the initial order~~  
29 ~~or any subsequent order to expel issued pursuant to Section 48916.~~

30 ~~(c) Additional academic or behavioral criteria or conditions~~  
31 ~~shall not be added that would extend the duration of the placement~~  
32 ~~of a pupil in a county community school beyond the terms of the~~  
33 ~~initial order or any subsequent order to expel issued pursuant to~~  
34 ~~Section 48916.~~

35 (b) *Consistent with the process and procedures set forth in*  
36 *Section 48916, only the governing board of the school district that*  
37 *issued the initial order or subsequent order to expel may extend*  
38 *the duration of an expelled pupil’s placement in a county*  
39 *community school.*

1 SEC. 4. Section 1983 of the Education Code is amended to  
2 read:

3 1983. (a) Pupils enrolled in county community schools shall  
4 be assigned to classes or programs deemed most appropriate for  
5 reinforcing or reestablishing educational development.

6 (b) These classes or programs may include, but need not be  
7 limited to, basic educational skill development, on-the-job training,  
8 school credit recovery assistance, tutorial assistance, and individual  
9 guidance activities.

10 (c) To the extent that independent study is determined to satisfy  
11 the individually planned educational program described in  
12 subdivision (d) for a pupil attending a county community school,  
13 it shall meet all the requirements of Section 51745 and following,  
14 including the requirement that entry into that program is voluntary.

15 (d) An individually planned educational program based upon  
16 an educational assessment shall be prescribed for each pupil.

17 (e) The course of study of a county community school shall be  
18 adopted by the county board of education and shall enable each  
19 pupil to continue academic work leading to the completion of a  
20 regular high school program.

21 ~~(f) County—Pursuant to Part 30 (commencing with Section~~  
22 ~~56000) of Division 4 of Title 2 of this code, Chapter 33~~  
23 ~~(commencing with Section 1400) of Title 20 of the United States~~  
24 ~~Code, and accompanying state and federal regulatory provisions,~~  
25 ~~county boards of education operating county community schools~~  
26 ~~shall ensure that assessments are administered in all areas of~~  
27 ~~suspected disability and appropriate services and programs as~~  
28 ~~specified in a pupil’s individualized education program are~~  
29 ~~provided in compliance with Section 56000 and following of the~~  
30 ~~Education Code and Section 1400 and following of Title 20 of the~~  
31 ~~United States Code, and accompanying regulatory provisions.~~

32 (g) County boards of education operating county community  
33 schools shall ensure that appropriate services and programs  
34 designed to address the language needs of pupils identified as  
35 English learners are provided in compliance with all applicable  
36 state and federal laws and regulatory provisions.

37 SEC. 5. Section 48660.1 of the Education Code is amended to  
38 read:

1 48660.1. (a) It is the intent of the Legislature that school  
2 districts operating community day schools, to the extent possible,  
3 include the following program components:

4 (1) School district cooperation with the county office of  
5 education, law enforcement, probation, and human services  
6 agencies personnel who work with at-risk youth.

7 (2) Low pupil-teacher ratio.

8 (3) Individualized instruction and assessment. If an  
9 individualized assessment shows that the pupil requires additional  
10 educational services, supports, such as mental health counseling,  
11 or classes, that are not ~~available~~ *offered* at the community day  
12 school, the parent, guardian, or responsible adult of the pupil ~~should~~  
13 *shall* be informed. If the pupil has been placed pursuant to a court  
14 order as described in paragraph (2) of subdivision (a) of Section  
15 48662, the probation officer ~~should~~ *shall* also be informed.

16 (4) Maximum collaboration with school district support service  
17 resources, including, but not limited to, school counselors and  
18 psychologists, academic counselors, and pupil discipline personnel.

19 (5) A course of study that enables each pupil to continue  
20 academic work leading to the completion of a regular high school  
21 program.

22 (b) (1) For an expelled pupil, if the plan of rehabilitation  
23 required pursuant to subdivisions (b) and (c) of Section 48916  
24 requires access to a particular service or program for the pupil to  
25 meet its conditions, ~~that service or program shall be made available~~  
26 ~~to the pupil free of cost or the rehabilitation plan shall be amended~~  
27 ~~by the governing board of the school district that ordered the~~  
28 ~~expulsion to remove the condition and reflect that the service or~~  
29 ~~program is not available to the pupil.~~ *the school district shall assist*  
30 *the pupil in identifying those services or programs. The school*  
31 *district shall not deny a pupil readmission to the school district*  
32 *for the sole reason of not completing the service or program*  
33 *required by his or her rehabilitation plan if the pupil was unable*  
34 *to complete that service or program due to factors outside of his*  
35 *or her control, including, but not limited to, being unable to find*  
36 *a service or program that is free of cost, or that is geographically*  
37 *accessible.*

38 (2) *Pursuant to Section 48916.5, the governing board of a school*  
39 *district may require a pupil to enroll in a county-supported drug*  
40 *rehabilitation program, except that a pupil shall not be required*

1 *to enroll in a county-supported drug rehabilitation program*  
2 *without the consent of his or her parent or guardian. If a parent*  
3 *or guardian opts to enroll his or her pupil in a county-supported*  
4 *drug rehabilitation program for a fee pursuant to Section 48916.5,*  
5 *the school district shall not be liable for the cost of the program.*

6 (c) ~~School—Pursuant to Part 30 (commencing with Section~~  
7 ~~56000) of Division 4 of Title 2 of this code, Chapter 33~~  
8 ~~(commencing with Section 1400) of Title 20 of the United States~~  
9 ~~Code, and accompanying state and federal regulatory provisions,~~  
10 *school districts operating community day schools shall ensure that*  
11 *assessments are administered in all areas of suspected disability*  
12 *and appropriate services and programs specified in a pupil's*  
13 *individualized education program are provided in compliance with*  
14 *Section 56000 and following of the Education Code and Section*  
15 *1400 and following of Title 20 of the United States Code, and*  
16 *accompanying regulatory provisions.*

17 (d) School districts operating community day schools shall  
18 ensure that appropriate services and programs designed to address  
19 the language needs of pupils identified as English learners are  
20 provided in compliance with all applicable state and federal laws  
21 and regulatory provisions.

22 SEC. 6. Section 48662 of the Education Code is amended to  
23 read:

24 48662. (a) A pupil may be involuntarily transferred to a  
25 community day school by a school district only if he or she meets  
26 one or more of the following conditions:

27 (1) The pupil is expelled for any reason.

28 (2) The pupil is on probation with or without the supervision  
29 of a probation officer and consistent with an order of a juvenile  
30 court, and is considered to be a ward of the court under Sections  
31 601 and 602 of the Welfare and Institutions Code and is ordered  
32 placed pursuant to Sections 725, 729.2, and 791 of, and paragraph  
33 (2) of subdivision (a) of Section 727 of, the Welfare and Institutions  
34 Code.

35 (3) (A) The pupil is referred by the school attendance review  
36 board, or other district-level referral process ~~if there is no school~~  
37 ~~attendance review board,~~ with the approval of and a determination  
38 by the school district that the proposed school will meet the  
39 educational needs of the pupil, including any needs related to the  
40 referral to the school attendance review board in the first instance;

1 and that the proposed school is geographically accessible by the  
2 pupil without the pupil incurring any transportation costs above  
3 and beyond the costs to attend his or her school of residence. The  
4 term for an involuntary transfer under this paragraph shall be no  
5 longer than the end of the semester following the semester during  
6 which the acts leading to the referral occurred, regardless of  
7 whether the pupil is successful at the placement, at which time the  
8 parent, guardian, or responsible adult may choose whether to  
9 continue the pupil's enrollment at the community day school or  
10 to return the pupil to the prior school or another appropriate school.  
11 If the parent, guardian, or responsible adult has concerns at any  
12 time about the appropriateness of the proposed placement, he or  
13 she may raise those concerns with the school attendance review  
14 board or the school district, and those concerns shall be taken into  
15 consideration with regard to whether the placement shall continue.  
16 *instance. If the community day school is not geographically*  
17 *accessible to the pupil, the school attendance review board or*  
18 *other district-level referral process shall include a school option*  
19 *for the pupil that is geographically accessible to the pupil. For*  
20 *purposes of this paragraph, "geographically accessible" means*  
21 *that the pupil can reasonably travel to and from the school and is*  
22 *able to pay for any transportation costs that are above and beyond*  
23 *the costs to attend his or her school of residence or prior school,*  
24 *whichever is farther away.*

25 (B) *If the parent, guardian, or responsible adult has concerns*  
26 *at any time about the appropriateness of the proposed placement,*  
27 *he or she may raise those concerns with the school attendance*  
28 *review board or the school district, and those concerns shall be*  
29 *taken into consideration with regard to whether the placement*  
30 *shall continue.*

31 (C) *The term for an involuntary transfer under this paragraph*  
32 *shall be no longer than the end of the semester following the*  
33 *semester during which the acts leading to the referral occurred,*  
34 *at which time the pupil shall have the right to reenroll in his or*  
35 *her prior school or another comprehensive school of the school*  
36 *district. This section is not intended to limit the school placement*  
37 *options that a school district may recommend. This section is not*  
38 *intended to limit a pupil or the parent or guardian of a pupil from*  
39 *making a request that the pupil continue his or her enrollment at*  
40 *the community day school.*

1     ***(b) First priority for assignment to a community day school***  
2     ***shall be given to a pupil expelled pursuant to subdivision (d) of***  
3     ***Section 48915, second priority shall be given to pupils expelled***  
4     ***for other reasons, and third priority for placement shall be given***  
5     ***to all other pupils pursuant to this section, unless there is an***  
6     ***agreement that the county superintendent of schools shall serve***  
7     ***these pupils.***

8     ~~(b)~~

9     ***(c) A pupil may be voluntarily transferred to a community day***  
10    ***school only if he or she meets one of the following conditions:***

11    ***(1) Under the supervision of a probation officer, with the consent***  
12    ***of the minor and the minor's parent or guardian, pursuant to Section***  
13    ***654 of the Welfare and Institutions Code.***

14    ***(2) Under the supervision of a probation officer pursuant to***  
15    ***Section 726 of, and paragraph (3) of subdivision (a) of Section***  
16    ***727 of, the Welfare and Institutions Code with the consent of the***  
17    ***pupil's parent, guardian, or responsible adult appointed by the***  
18    ***juvenile court to make educational decisions for the pupil. The***  
19    ***enrollment of a minor covered by this paragraph in a community***  
20    ***day school shall be consistent with paragraph (2) of subdivision***  
21    ***(c) of Section 726 of the Welfare and Institutions Code and***  
22    ***subdivision (h) of Section 48853, which provide that all educational***  
23    ***and school placement decisions shall seek to ensure that the minor***  
24    ***is in the least restrictive educational program, has access to the***  
25    ***academic resources, services, and extracurricular and enrichment***  
26    ***activities that are available to all pupils, and that the decisions are***  
27    ***based on the best interests of the ~~minor~~ child.***

28    ***(3) The parent or guardian of the pupil has approved or requested***  
29    ***the pupil's placement in a community day school.***

30    ***(4) A pupil who is recommended to attend a community day***  
31    ***school by a school district shall not be enrolled in a community***  
32    ***day school pursuant to paragraph (3) unless the school district***  
33    ***determines that the placement will promote the educational interests***  
34    ***of the pupil.***

35    ***(5) The parent, guardian, or responsible adult of a pupil enrolled***  
36    ***in a community day school pursuant to paragraph (3) may rescind***  
37    ***the request for placement at the beginning of the semester or as***  
38    ***soon thereafter as possible, and the pupil shall be immediately***  
39    ***reenrolled in the school the pupil attended at the time of the***

1 referral, or, with the consent of the parent, guardian, or responsible  
2 adult, in another appropriate school.

3 (e)

4 (d) The procedures outlined in subdivisions (b) to (e), inclusive,  
5 of Section 51225.2 govern the transfer of credits, records, including  
6 special education records, and grades required pursuant to  
7 subdivision (a) of Section 48645.5 and Section 49068 when the  
8 pupil transfers to and from the community day school.

9 ~~(d) First priority for assignment to a community day school~~  
10 ~~shall be given to a pupil expelled pursuant to subdivision (d) of~~  
11 ~~Section 48915, second priority shall be given to pupils expelled~~  
12 ~~for other reasons, and third priority for placement shall be given~~  
13 ~~to all other pupils pursuant to this section, unless there is an~~  
14 ~~agreement that the county superintendent of schools shall serve~~  
15 ~~these pupils.~~

16 (e) Unless specifically ordered by a juvenile court, nothing in  
17 this section shall be construed to conflict with the existing rights  
18 of a parent or guardian or responsible adult appointed by the  
19 juvenile court pursuant to Section 726 of the Welfare and  
20 Institutions Code to make educational placement decisions for the  
21 minor.

22 (f) Enrollment in a community day school pursuant to this  
23 section shall be consistent with *subdivision (b) of Section 48645.5*.

24 (g) With respect to a voluntary transfer under paragraph (1) or  
25 (2) of subdivision ~~(b)~~; (c), and consistent with paragraph (2) of  
26 subdivision (c) of Section 726 of the Welfare and Institutions Code  
27 and California Rule of Court 5.651, all of the following shall apply:

28 (1) The attorney for, or the person holding the educational rights  
29 of, a pupil who is under the jurisdiction of the delinquency court  
30 may use the procedures set forth in California Rule of Court 5.651  
31 to address any change of placement that results in the enrollment  
32 of the pupil in a community day school that is not his or her school  
33 of origin.

34 (2) The attorney or the person holding the educational rights  
35 appointed by the court for a pupil who is under the jurisdiction of  
36 the delinquency court may, during a regularly scheduled hearing,  
37 raise any concerns with respect to whether the enrollment of the  
38 pupil in a community day school is meeting the educational needs  
39 of the pupil.

1 (3) Nothing in this subdivision is intended to limit in any way  
2 the rights or responsibilities of any person as set forth in paragraph  
3 (2) of subdivision (c) of Section 726 of the Welfare and Institutions  
4 Code and California Rule of Court 5.651.

5 SEC. 7. Section 48662.5 is added to the Education Code, to  
6 read:

7 48662.5. (a) A pupil who ~~is~~ *has been* involuntarily enrolled  
8 in a community day school shall have the right to reenroll in his  
9 or her former school or another comprehensive school immediately  
10 after being readmitted ~~from the~~ *pursuant to Section 48916 from*  
11 *an* expulsion order ~~pursuant to Section 48916~~ or court-ordered  
12 placement. Nothing in this section is intended to limit the school  
13 placement options that a school district may recommend for a pupil  
14 being readmitted.

15 ~~(b) A pupil shall not be denied readmission to the school district~~  
16 ~~of residence based on the pupil's failure to comply with any~~  
17 ~~additional criteria imposed beyond the terms of an initial or~~  
18 ~~subsequent order to expel issued pursuant to Section 48916.~~

19 ~~(c) Additional academic or behavioral criteria or conditions~~  
20 ~~shall not be added that would extend the duration of the placement~~  
21 ~~of a pupil in a community day school beyond the terms of an initial~~  
22 ~~or subsequent order to expel issued pursuant to Section 48916.~~

23 ~~(b) Consistent with the process and procedures set forth in~~  
24 ~~Section 48916, only the governing board of the school district that~~  
25 ~~issued the initial order or subsequent order to expel may extend~~  
26 ~~the duration of an expelled pupil's placement in a community day~~  
27 ~~school.~~

28 ~~(d)~~

29 (c) Any school created for the purpose of enrolling pupils that  
30 may be assigned to a community day school pursuant to Section  
31 48662 shall follow the same procedures for the involuntary transfer  
32 of pupils to a community day school set forth in this article.

33 SEC. 8. Section 48918 of the Education Code is amended to  
34 read:

35 48918. The governing board of each school district shall  
36 establish rules and regulations governing procedures for the  
37 expulsion of pupils. These procedures shall include, but are not  
38 necessarily limited to, all of the following:

39 (a) (1) The pupil shall be entitled to a hearing to determine  
40 whether the pupil should be expelled. An expulsion hearing shall

1 be held within 30 schooldays after the date the principal or the  
2 superintendent of schools determines that the pupil has committed  
3 any of the acts enumerated in Section 48900, unless the pupil  
4 requests, in writing, that the hearing be postponed. The adopted  
5 rules and regulations shall specify that the pupil is entitled to at  
6 least one postponement of an expulsion hearing, for a period of  
7 not more than 30 calendar days. Any additional postponement may  
8 be granted at the discretion of the governing board of the school  
9 district.

10 (2) Within 10 schooldays after the conclusion of the hearing,  
11 the governing board of the school district shall decide whether to  
12 expel the pupil, unless the pupil requests in writing that the decision  
13 be postponed. If the hearing is held by a hearing officer or an  
14 administrative panel, or if the governing board of the school district  
15 does not meet on a weekly basis, the governing board of the school  
16 district shall decide whether to expel the pupil within 40 schooldays  
17 after the date of the pupil's removal from his or her school of  
18 attendance for the incident for which the recommendation for  
19 expulsion is made by the principal or the superintendent, unless  
20 the pupil requests in writing that the decision be postponed.

21 (3) If compliance by the governing board of the school district  
22 with the time requirements for the conducting of an expulsion  
23 hearing under this subdivision is impracticable during the regular  
24 school year, the superintendent of schools or the superintendent's  
25 designee may, for good cause, extend the time period for the  
26 holding of the expulsion hearing for an additional five schooldays.  
27 If compliance by the governing board of the school district with  
28 the time requirements for the conducting of an expulsion hearing  
29 under this subdivision is impractical due to a summer recess of  
30 governing board meetings of more than two weeks, the days during  
31 the recess period shall not be counted as schooldays in meeting  
32 the time requirements. The days not counted as schooldays in  
33 meeting the time requirements for an expulsion hearing because  
34 of a summer recess of governing board meetings shall not exceed  
35 20 schooldays, as defined in subdivision (c) of Section 48925, and  
36 unless the pupil requests in writing that the expulsion hearing be  
37 postponed, the hearing shall be held not later than 20 calendar days  
38 before the first day of school for the school year. Reasons for the  
39 extension of the time for the hearing shall be included as a part of  
40 the record at the time the expulsion hearing is conducted. Upon

1 the commencement of the hearing, all matters shall be pursued  
2 and conducted with reasonable diligence and shall be concluded  
3 without any unnecessary delay.

4 (b) Written notice of the hearing shall be forwarded to the pupil  
5 at least 10 calendar days before the date of the hearing. The notice  
6 shall include all of the following:

7 (1) The date and place of the hearing.

8 (2) A statement of the specific facts and charges upon which  
9 the proposed expulsion is based.

10 (3) A copy of the disciplinary rules of the school district that  
11 relate to the alleged violation.

12 (4) A notice of the parent, guardian, or pupil's obligation  
13 pursuant to subdivision (b) of Section 48915.1.

14 (5) Notice of the opportunity for the pupil or the pupil's parent  
15 or guardian to appear in person or to be represented by legal  
16 counsel or by a nonattorney adviser, to inspect and obtain copies  
17 of all documents to be used at the hearing, to confront and question  
18 all witnesses who testify at the hearing, to question all other  
19 evidence presented, and to present oral and documentary evidence  
20 on the pupil's behalf, including witnesses. In a hearing in which  
21 a pupil is alleged to have committed or attempted to commit a  
22 sexual assault as specified in subdivision (n) of Section 48900 or  
23 to have committed a sexual battery as defined in subdivision (n)  
24 of Section 48900, a complaining witness shall be given five days'  
25 notice before being called to testify, and shall be entitled to have  
26 up to two adult support persons, including, but not limited to, a  
27 parent, guardian, or legal counsel, present during his or her  
28 testimony. Before a complaining witness testifies, support persons  
29 shall be admonished that the hearing is confidential. This  
30 subdivision shall not preclude the person presiding over an  
31 expulsion hearing from removing a support person whom the  
32 presiding person finds is disrupting the hearing. If one or both of  
33 the support persons is also a witness, the provisions of Section  
34 868.5 of the Penal Code shall be followed for the hearing. This  
35 section does not require a pupil or the pupil's parent or guardian  
36 to be represented by legal counsel or by a nonattorney adviser at  
37 the hearing.

38 (A) For purposes of this section, "legal counsel" means an  
39 attorney or lawyer who is admitted to the practice of law in  
40 California and is an active member of the State Bar of California.

1 (B) For purposes of this section, “nonattorney advisor” means  
2 an individual who is not an attorney or lawyer, but who is familiar  
3 with the facts of the case, and has been selected by the pupil or  
4 pupil’s parent or guardian to provide assistance at the hearing.

5 (c) (1) Notwithstanding Section 35145, the governing board of  
6 the school district shall conduct a hearing to consider the expulsion  
7 of a pupil in a session closed to the public, unless the pupil  
8 requests, in writing, at least five days before the date of the hearing,  
9 that the hearing be conducted at a public meeting. Regardless of  
10 whether the expulsion hearing is conducted in a closed or public  
11 session, the governing board of the school district may meet in  
12 closed session for the purpose of deliberating and determining  
13 whether the pupil should be expelled.

14 (2) If the governing board of the school district or the hearing  
15 officer or administrative panel appointed under subdivision (d) to  
16 conduct the hearing admits any other person to a closed deliberation  
17 session, the parent or guardian of the pupil, the pupil, and the  
18 counsel of the pupil also shall be allowed to attend the closed  
19 deliberations.

20 (3) If the hearing is to be conducted at a public meeting, and  
21 there is a charge of committing or attempting to commit a sexual  
22 assault as defined in subdivision (n) of Section 48900 or  
23 committing a sexual battery as defined in subdivision (n) of Section  
24 48900, a complaining witness shall have the right to have his or  
25 her testimony heard in a session closed to the public when  
26 testifying at a public meeting would threaten serious psychological  
27 harm to the complaining witness and there are no alternative  
28 procedures to avoid the threatened harm, including, but not limited  
29 to, videotaped deposition or contemporaneous examination in  
30 another place communicated to the hearing room by means of  
31 closed-circuit television.

32 (d) Instead of conducting an expulsion hearing itself, the  
33 governing board of the school district may contract with the county  
34 hearing officer, or with the Office of Administrative Hearings  
35 pursuant to Chapter 14 (commencing with Section 27720) of Part  
36 3 of Division 2 of Title 3 of the Government Code and Section  
37 35207 of this code, for a hearing officer to conduct the hearing.  
38 The governing board of the school district may also appoint an  
39 impartial administrative panel of three or more certificated persons,  
40 none of whom is a member of the governing board of the school

1 district or employed on the staff of the school in which the pupil  
2 is enrolled. The hearing shall be conducted in accordance with all  
3 of the procedures established under this section.

4 (e) Within three schooldays after the hearing, the hearing officer  
5 or administrative panel shall determine whether to recommend the  
6 expulsion of the pupil to the governing board of the school district.  
7 If the hearing officer or administrative panel decides not to  
8 recommend expulsion, the expulsion proceedings shall be  
9 terminated and the pupil immediately shall be reinstated and  
10 permitted to return to the classroom instructional program from  
11 which the expulsion referral was made, unless the parent, guardian,  
12 or responsible adult of the pupil requests another school placement  
13 in writing. Before the placement decision is made by the parent,  
14 guardian, or responsible adult, the superintendent of schools or  
15 the superintendent's designee shall consult with school district  
16 personnel, including the pupil's teachers, and the parent, guardian,  
17 or responsible adult regarding any other school placement options  
18 for the pupil in addition to the option to return to his or her  
19 classroom instructional program from which the expulsion referral  
20 was made. *If the hearing officer or administrative panel finds that*  
21 *the pupil committed any of the acts specified in subdivision (c) of*  
22 *Section 48915, but does not recommend expulsion, the pupil shall*  
23 *be immediately reinstated but may be referred to his or her prior*  
24 *school, or, pursuant to the procedures set forth in Section 48432.5,*  
25 *a continuation school of the school district.* The decision not to  
26 recommend expulsion shall be final.

27 (f) (1) If the hearing officer or administrative panel recommends  
28 expulsion, findings of fact in support of the recommendation shall  
29 be prepared and submitted to the governing board of the school  
30 district. All findings of fact and recommendations shall be based  
31 solely on the evidence adduced at the hearing. If the governing  
32 board of the school district accepts the recommendation calling  
33 for expulsion, acceptance shall be based either upon a review of  
34 the findings of fact and recommendations submitted by the hearing  
35 officer or panel or upon the results of any supplementary hearing  
36 conducted pursuant to this section that the governing board of the  
37 school district may order.

38 (2) The decision of the governing board of the school district  
39 to expel a pupil shall be based upon substantial evidence relevant  
40 to the charges adduced at the expulsion hearing or hearings. Except

1 as provided in this section, ~~no~~ evidence to expel shall *not* be based  
2 solely upon hearsay evidence. The governing board of the school  
3 district or the hearing officer or administrative panel may, upon a  
4 finding that good cause exists, determine that the disclosure of  
5 either the identity of a witness or the testimony of that witness at  
6 the hearing, or both, would subject the witness to an unreasonable  
7 risk of psychological or physical harm. Upon this determination,  
8 the testimony of the witness may be presented at the hearing in  
9 the form of sworn declarations that shall be examined only by the  
10 governing board of the school district or the hearing officer or  
11 administrative panel. Copies of these sworn declarations, edited  
12 to delete the name and identity of the witness, shall be made  
13 available to the pupil.

14 (g) A record of the hearing shall be made. The record may be  
15 maintained by any means, including electronic recording, so long  
16 as a reasonably accurate and complete written transcription of the  
17 proceedings can be made.

18 (h) (1) Technical rules of evidence shall not apply to the  
19 hearing, but relevant evidence may be admitted and given probative  
20 effect only if it is the kind of evidence upon which reasonable  
21 persons are accustomed to rely in the conduct of serious affairs.  
22 A decision of the governing board of the school district to expel  
23 shall be supported by substantial evidence showing that the pupil  
24 committed any of the acts enumerated in Section 48900.

25 (2) In hearings that include an allegation of committing or  
26 attempting to commit a sexual assault as defined in subdivision  
27 (n) of Section 48900 or committing a sexual battery as defined in  
28 subdivision (n) of Section 48900, evidence of specific instances,  
29 of a complaining witness' prior sexual conduct is to be presumed  
30 inadmissible and shall not be heard absent a determination by the  
31 person conducting the hearing that extraordinary circumstances  
32 exist requiring the evidence be heard. Before the person conducting  
33 the hearing makes the determination on whether extraordinary  
34 circumstances exist requiring that specific instances of a  
35 complaining witness' prior sexual conduct be heard, the  
36 complaining witness shall be provided notice and an opportunity  
37 to present opposition to the introduction of the evidence. In the  
38 hearing on the admissibility of the evidence, the complaining  
39 witness shall be entitled to be represented by a parent, guardian,  
40 legal counsel, or other support person. Reputation or opinion

1 evidence regarding the sexual behavior of the complaining witness  
2 is not admissible for any purpose.

3 (i) (1) Before the hearing has commenced, the governing board  
4 of the school district may issue subpoenas at the request of either  
5 the superintendent of schools or the superintendent's designee or  
6 the pupil, for the personal appearance of percipient witnesses at  
7 the hearing. After the hearing has commenced, the governing board  
8 of the school district or the hearing officer or administrative panel  
9 may, upon request of either the county superintendent of schools  
10 or the superintendent's designee or the pupil, issue subpoenas. All  
11 subpoenas shall be issued in accordance with Sections 1985,  
12 1985.1, and 1985.2 of the Code of Civil Procedure. Enforcement  
13 of subpoenas shall be done in accordance with Section 11455.20  
14 of the Government Code.

15 (2) Any objection raised by the superintendent of schools or the  
16 superintendent's designee or the pupil to the issuance of subpoenas  
17 may be considered by the governing board of the school district  
18 in closed session, or in open session, if so requested by the pupil  
19 before the meeting. Any decision by the governing board of the  
20 school district in response to an objection to the issuance of  
21 subpoenas shall be final and binding.

22 (3) If the governing board of the school district, hearing officer,  
23 or administrative panel determines, in accordance with subdivision  
24 (f), that a percipient witness would be subject to an unreasonable  
25 risk of harm by testifying at the hearing, a subpoena shall not be  
26 issued to compel the personal attendance of that witness at the  
27 hearing. However, that witness may be compelled to testify by  
28 means of a sworn declaration as provided for in subdivision (f).

29 (4) Service of process shall be extended to all parts of the state  
30 and shall be served in accordance with Section 1987 of the Code  
31 of Civil Procedure. All witnesses appearing pursuant to subpoena,  
32 other than the parties or officers or employees of the state or any  
33 political subdivision ~~thereof~~, *of the state*, shall receive fees, and  
34 all witnesses appearing pursuant to subpoena, except the parties,  
35 shall receive mileage in the same amount and under the same  
36 circumstances as prescribed for witnesses in civil actions in a  
37 superior court. Fees and mileage shall be paid by the party at whose  
38 request the witness is subpoenaed.

39 (j) Whether an expulsion hearing is conducted by the governing  
40 board of the school district or before a hearing officer or

1 administrative panel, final action to expel a pupil shall be taken  
2 only by the governing board of the school district in a public  
3 session. Written notice of any decision to expel or to suspend the  
4 enforcement of an expulsion order during a period of probation  
5 shall be sent by the superintendent of schools or his or her designee  
6 to the pupil or the pupil’s parent or guardian and shall be  
7 accompanied by all of the following:

8 (1) Notice of the right to appeal the expulsion to the county  
9 board of education.

10 (2) Notice of the education alternative placement to be provided  
11 to the pupil during the time of expulsion.

12 (3) Notice of the obligation of the parent, guardian, or pupil  
13 under subdivision (b) of Section 48915.1, upon the pupil’s  
14 enrollment in a new school district, to inform that school district  
15 of the pupil’s expulsion.

16 (k) (1) The governing board of the school district shall maintain  
17 a record of each expulsion, including the cause for the expulsion.  
18 Records of expulsions shall be a nonprivileged, disclosable public  
19 record.

20 (2) The expulsion order and the causes for the expulsion shall  
21 be recorded in the pupil’s mandatory interim record and shall be  
22 forwarded to any school in which the pupil subsequently enrolls  
23 upon receipt of a request from the admitting school for the pupil’s  
24 school records.

25 SEC. 9. If the Commission on State Mandates determines that  
26 this act contains costs mandated by the state, reimbursement to  
27 local agencies and school districts for those costs shall be made  
28 pursuant to Part 7 (commencing with Section 17500) of Division  
29 4 of Title 2 of the Government Code.

O